

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

**UNITED STATES OF AMERICA**

**V.**

**NO. 3:23-CR-24-2**

**ELVIS GONZALEZ**

**ORDER**

Elvis Gonzalez’s sentencing hearing was initially set for September 6, 2023. Doc. #22. On August 29, 2023, Gonzalez filed a “Motion to Apply the U.S.S.G. Zero-Point Offender Adjustment to the Total Offense Level Calculation; or in the Alternative, Motion to Continue Sentencing.” Doc. #51. Specifically, Gonzalez asks the Court to (1) “apply the two-point offense level adjustment for zero-point offenders to [his] guideline calculation due to the [United States Sentencing] Commission’s recent decision to make the provision retroactive;” or (2) continue his sentencing hearing “until after November 1, 2023” when the Commission’s “amendments will become effective by operation of law.” *Id.* at PageID 122–23. Gonzalez represents that the government does not object to the relief requested. *Id.* at PageID 125. On September 1, 2023, the Court deferred ruling on the motion because it “wants the government’s position on the motion (as well as input from the Probation Office)” and ordered the government to respond to the motion no later than September 8, 2023. Doc. #55. The government failed to respond.

Gonzalez is correct that the Sentencing Commission amendment he references will apply retroactively.<sup>1</sup> Because the government failed to respond to the motion, the Court deems

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<sup>1</sup> United States Sentencing Commission, *U.S. Sentencing Commission Votes to Allow Retroactive Sentence Reductions and Announces its Next Set of Policy Priorities* (August 24, 2023), <https://www.ussc.gov/about/news/press-releases/august-24-2023>.

Gonzalez's motion unopposed.<sup>2</sup> So in the interest of judicial efficiency, to the extent the referenced amendment applies to Gonzalez, Gonzalez's motion [51] is **GRANTED**. There being no reason to wait until after November 1 to proceed with Gonzalez's sentencing hearing, the sentencing hearing will be reset for October 18, 2023.

**SO ORDERED**, this 22nd day of September, 2023.

/s/Debra M. Brown  
**UNITED STATES DISTRICT JUDGE**

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<sup>2</sup> See U.L. Crim. R. 47(C)(1) ("For any motion other than a dispositive motion or a motion for post-conviction relief, the court may grant the motion as unopposed if a party fails to respond or provide notice of its intent not to respond within the time allotted").